

Message

From: Marianne L. Engelman-Lado [mle2128@columbia.edu]
Sent: 11/30/2018 5:46:19 AM
To: Biffi, Betsy [Biffi.Betsy@epa.gov]
CC: Dorka, Lilian [Dorka.Lilian@epa.gov]; Zee, M. Andrew (CIV) [M.Andrew.Zee@usdoj.gov]; Covington, Jeryl [Covington.Jeryl@epa.gov]; Stein, Jonathan [Stein.Jonathan@epa.gov]; McGhee, Debra [mcghee.debra@epa.gov]; Leah Aden [LAden@naacpldf.org]; Louis Fisher [lfisher@naacpldf.org]; Suzanne Novak [snovak@earthjustice.org]; Jonathan J. Smith [jjsmith@earthjustice.org]; elloyd@law.columbia.edu; Acheampong, Elvis [elvis.acheampong@yale.edu]; Northrop, Caleb [caleb.northrop@yale.edu]; Sarah Jackson [smj2166@columbia.edu]; Nicole Sockett [nicole.sockett@columbia.edu]; O'Lone, Mary [OLone.Mary@epa.gov]; Rhines, Dale [rhines.dale@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]
Subject: Timing of ABSCO Investigation, EPA Case No. 16R-17-R4

Betsy,

Thanks for the response to our November 23rd email.

We want to make clear that our proposal in that email contemplated a joint notification to the court that the parties have agreed to an extension of the timeline for the investigation of ABSCO's complaint based on ABSCO's understanding that EPA is actively investigating the case. While we understand the content of the court's judgment in the litigation, as well as the regulatory requirements, ABSCO has submitted significant documentary evidence and material, including as recently as October 12, that we believe requires more time to fully review, much less to thoroughly follow up on before drawing conclusions about ABSCO's significant allegations.

Sincerely,

Marianne

From: "Biffi, Betsy" <Biffi.Betsy@epa.gov>
Date: Tuesday, November 27, 2018 at 5:13 PM
To: "Dorka, Lilian" <Dorka.Lilian@epa.gov>, Marianne Engelman Lado <marianne.engelman-lado@yale.edu>
Cc: "Zee, M. Andrew (CIV)" <M.Andrew.Zee@usdoj.gov>, "Covington, Jeryl" <Covington.Jeryl@epa.gov>, "Stein, Jonathan" <Stein.Jonathan@epa.gov>, "McGhee, Debra" <mcghee.debra@epa.gov>, Leah Aden <LAden@naacpldf.org>, Louis Fisher <lfisher@naacpldf.org>, Suzanne Novak <snovak@earthjustice.org>, "Jonathan J. Smith" <jjsmith@earthjustice.org>, "elloyd@law.columbia.edu" <elloyd@law.columbia.edu>, "Acheampong, Elvis" <elvis.acheampong@yale.edu>, "Northrop, Caleb" <caleb.northrop@yale.edu>, Sarah Jackson <smj2166@columbia.edu>, Nicole Sockett <nicole.sockett@columbia.edu>, "O'Lone, Mary" <OLone.Mary@epa.gov>, "Rhines, Dale" <rhines.dale@epa.gov>, "Temple, Kurt" <Temple.Kurt@epa.gov>
Subject: RE: Timing of ABSCO Investigation, EPA Case No. 16R-17-R4

Hello Marianne,

I am responding to your Nov. 23 email to ECRCO, in which you proposed an extension of the court-imposed deadline for resolution of EPA Complaint No. 16R-17-R4, the complaint filed by ABSCO in relation to the Stone's Throw landfill. As you know, the district court's judgment in *CARE, et al. v. EPA* imposes a specific timetable for EPA to resolve ABSCO's complaint, and EPA fully intends to comply with that court-ordered deadline. Moreover, even if the court's order was not in place, ECRCO has been working diligently on the ABSCO investigation and will not need additional time to complete its investigation.

Best regards,

Betsy Biffl
EPA Office of General Counsel
Civil Rights Practice Group
(202) 564-3389



From: Dorka, Lilian
Sent: Friday, November 23, 2018 1:12 PM
To: Engelman-Lado, Marianne <marianne.engelman-lado@yale.edu>
Cc: Zee, M. Andrew (CIV) <M.Andrew.Zee@usdoj.gov>; Biffl, Betsy <Biffl.Betsy@epa.gov>; Covington, Jeryl <Covington.Jeryl@epa.gov>; Stein, Jonathan <Stein.Jonathan@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>; Leah Aden <LAden@naacpldf.org>; Louis Fisher <lfisher@naacpldf.org>; Suzanne Novak <snovak@earthjustice.org>; Jonathan J. Smith <jjsmith@earthjustice.org>; elloyd@law.columbia.edu; Acheampong, Elvis <elvis.acheampong@yale.edu>; Northrop, Caleb <caleb.northrop@yale.edu>; Sarah Jackson <smj2166@columbia.edu>; Nicole Sockett <nicole.sockett@columbia.edu>; O'Lone, Mary <olone.mary@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: Re: Timing of ABSCO Investigation, EPA Case No. 16R-17-R4

Thank you Marianne and happy Thanksgiving to you. Because this relates to the pending litigation I will defer to our DOJ attorney Andrew Zee and our EPA attorneys Betsy Biffl and Mary O'Lone. Thanks again, Lilian

Sent from my iPhone

Lilian Sotolongo Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel
US EPA
202-564-9649

On Nov 23, 2018, at 1:05 PM, Engelman-Lado, Marianne <marianne.engelman-lado@yale.edu> wrote:

Dear Lilian,

This email is intended to follow up on conversations that we have had with the ECRCO case team and representatives from the Office of General Counsel as well as recent correspondence with Andrew Zee, the DOJ attorney on *CARE v. EPA*, regarding the timeline for the investigation of claims filed by the Ashurst Bar/Smith Community Organization (ABSCO) against the Alabama Department of Environmental Management (ADEM), EPA Case No. 16R-17-R4.

We appreciate EPA's site visit July 31 through August 2 of this year and EPA's follow up. As you may know, ABSCO has provided additional information in support of its claims that the operation of the Landfill pursuant to the permit issued by ADEM has a disparate impact on the basis of race in violation of

Title VI and EPA regulations, and have tried to respond to requests for additional information as well as pursue sources of additional data in a timely way.

Given the history of EPA's investigation into the 2003 complaint filed by ABSCO, complainants remain attendant to the need for timely action and concerned about delay. Having said that, ABSCO also understands that a thorough investigation may take additional time and does not want the quality of the investigation to be shortchanged because of formal deadlines, including both the 180 regulatory deadline, which has already been exceeded, as well as the court-ordered deadline. ABSCO proposes to agree to extend the deadline for EPA to complete its investigation and formulate any recommendations, as appropriate.

This proposal is based on our understanding that ECRCO continues to actively investigate the case. We request a call to discuss the status of the investigation and the length of the extension at a mutually convenient time next week. We are cc'ing Andrew Zee because of the intersection with the *CARE v. EPA* litigation.

Please let us know what dates and times might work on your end.

I hope you are enjoying the holiday weekend. Happy Thanksgiving.

Sincerely,

Marianne

Marianne Engelman Lado
Morningside Heights legal Services
Environmental Law Clinic
Columbia University School of Law
435 West 116th Street
New York, NY. 10027

Ex. 6 Personal Privacy (PP)

cc.

Edward Lloyd
Sarah Jackson*
Nicole Sockett*
Environmental Law Clinic
Columbia University School of Law
*clinicians
Caleb Northrop
Elvis Acheampong
Members of EJ Capstone
Yale University School of Forestry & Environmental Science

Leah C. Aden
NAACP Legal Defense & Educational Fund, Inc.

Suzanne Novak
Jonathan Smith

Earthjustice

On behalf of the Ashurst Bar/Smith Community Organization